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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------------|------------------|
| 10/553,794 | 10/18/2005 | Yoshiharu Dewa | 279606US6XPCT | 6105 |
| 22850 | 7590 | 09/20/2007 | | |
| OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314 | | | EXAMINER HUSSAIN, IMAD | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2109 | |
| | | | NOTIFICATION DATE | DELIVERY MODE |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/553,794

Applicant(s)

DEWA ET AL.

Examiner

Imad Hussain

Art Unit

2109

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 1-3 and 6-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/18/2005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. PCT/JP04/05918, filed on 23 April 2004.

Specification

3. The disclosure is objected to because of the following informalities: "contents" should read "content" in the context of "content delivery" (throughout document, e.g., page 1, paragraph 1).

Appropriate correction is required.

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors such as the above. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

5. Claims 1-3 and 6-8 are objected to because of the following informality: "contents" should read "content" in the context of "content delivery". Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Agresta et al (US PGPub 20020091848 A1, hereafter Agresta).

Regarding claim 1, Agresta teaches a content delivery system for delivering contents from a content delivery apparatus [Fig 2 (20)] to a contents processing apparatus [Fig 2 (12)] by way of a network [Fig 2 (22)], the system comprising:

presenting a list of a plurality of sets of contents including at least a set of contents to be delivered by streaming and a set of contents to be delivered by downloaded files from the contents processing apparatus to a user thereof [*"The user will have the option of 'streaming' the selection to the terminal for instant access and simultaneous playing, or downloading the selection onto the memory of the terminal"*, paragraph 25];

inputting specifying information specifying the set of contents, from the sets of contents on the list, to be delivered to the user of the contents processing apparatus from the contents processing apparatus [*"permitting the subscriber to select and purchase desired entertainment content from the menu"*, claim 10]; and

acquiring by the contents processing apparatus the set of contents delivered from the contents delivering apparatus according to delivery information specifying the set of contents as one to be delivered by streaming or one to be delivered by downloaded files, the delivery information [*"the central database"*, paragraph 22, and user selection, claim 10] being provided by the content delivery apparatus by way of the

network [*"permitting the subscriber to access and download to the terminal any purchased entertainment content on the subscriber's content list"* per the user selection, claim 10].

Regarding claims 2, 3, 6, 7, and 8, the claims comprise the same limitations as claim 1. The same rationale for rejection is applicable.

Regarding claim 4, Agresta teaches that the delivery information is correlated with the license of the sets of contents [*"encryption/coding module 28 comprises a public/private key encryption methodology/technology to encrypt requested data prior to transmission to prevent unauthorized access, copying and use of the data"*, paragraph 42].

Regarding claim 5, Agresta teaches that the delivery information further includes information for accessing the sets of contents [*"GUID"*, paragraph 42].

Double Patenting

8. Applicant is advised that should claim 1 be found allowable, claims 2, 3, 6-8 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Kolls, H. Brock. US-6,389,337 B1 (Describes a system for selling and distributing media content over the Internet.)
- b. Lee, Sang Baek. US-2002/0073220 A1 (Describes a method for transmitting multimedia content to client systems.)
- c. Galuten, Albhy. US-2002/0123956 A1 (Describes a method for enforcing licensing on distributed content.)
- d. Hughes et al. US-2002/0156691 A1 (Describes a method for distributing audio content by both streaming and downloading means.)
- e. Berman et al. US-6,502,194 B1 (Describes a system for secure playback of audio content over a network.)
- f. Kitazato, Naohisa. US-2003/0004884 A1 (Describes a method for receiving and storing streamed content.)
- g. Katz et al. US-2003/0217113 A1 (Describes a method for storing and caching streamed content.)
- h. Drosset et al. US-6,662,231 B1 (Describes a method for securely delivering audio content to subscribers over a network.)
- i. Gordon et al. US-2004/0181490 A1 (Describes a method for delivering content and associated licenses.)

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- j. Juskiewicz, Henry E. US-2004/0199654 A1 (Describes a system for distributing audio content with associated licenses.)
- k. Zhu et al. US-2004/0196972 A1 (Describes a system for streaming and distributing media content with secure licenses.)
- l. Galuten et al. US-7,209,892 B1 (Describes a system for distributing music and media over a network, including streaming.)
- m. Lipscomb et al. WO 01/25948 (Describes a system for delivering media assets and managing user rights thereof.)
- n. Downs et al. US-6,226,618 (Describes a secure digital content distribution system with streaming and downloading capabilities.)
- o. Listen.com. Rhapsody (software). (Implementation of a content distribution system with user-selectable streaming and downloading.)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Imad Hussain whose telephone number is 571-270-3628. The examiner can normally be reached on Monday through Thursday from 0730 to 1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beatriz Prieto can be reached on 571-272-3902. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Imad Hussain


BEATRIZ PRIETO
SUPERVISORY PATENT EXAMINER